



Appeal Decision

Site visit made on 25 August 2020

by C Sherratt DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 October 2020

Appeal Ref: APP/M5450/X/19/3240163

8 Lincoln Close, Harrow HA2 7RJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Andrei Canache against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/3180/19, dated 16 July 2019, was refused by notice dated 23 May 2019.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is loft conversion with hip to gable roof extension to form gable, rear dormer and 3 Velux roof windows to front.
-

Procedural Matters

1. The application was made under section 191 of the Act and thus for existing development. However, as accepted by both parties, there are variations between the plans that accompanied the application to the Council and what was actually constructed as I observed on site. In particular, neither the windows nor the corresponding Juliette balconies, situated on the rear elevation of the dormer, are positioned as shown on the plans submitted with the application. The roof extension and dormer window were not previously carried out in full accordance with the plans provided.
2. Details of the development as constructed are not before me. As the plans do not reflect in all respects what has since been erected, I have determined the appeal on the basis of an application for proposed development under section 192 of the Act. Indeed, it is noted that the appellant has on the appeal form, selected section 192, noting that the development had 'not started at date of application'.
3. The Council recognises in its reasons for refusing to issue a certificate, that the submitted plans are inconsistent with what has been constructed on site, explaining that incorrect information had been provided to assess the proposal against the tolerances of Schedule 2, Part 1 Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). The Council has had an opportunity to make an assessment and make further representations should it consider the proposed development, as indicated on the submitted plans, would fail to meet any other limitations and conditions of Class B. No further representations have been made.

Decision

4. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

Main Issue

5. The main issue is whether the Council's decision to refuse to issue a certificate of lawfulness is well founded.

Reasons

6. Class B of Part 1 of Schedule 2 of the GPDO permits the enlargement of a house consisting of an addition or alteration to its roof subject to a number of conditions and limitations. The Council considers that the requirements of Paragraph B.2 which requires that the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse are not met. The northern flank of the elevation of the dormer is pebble dashed. This, in the Council's view, does not have a similar appearance to the main roof of the existing dwelling when viewed from ground level.
7. I note that the technical guidance explains that the condition set out in paragraph B.2 is intended to ensure that any addition or alteration to a roof for a loft conversion results in an appearance that minimises visual impact and is sympathetic to the existing house. This means that the materials used should be of similar visual appearance to those in the existing house but does not mean that they need to be the same materials or match exactly. The visual impacts of the materials used will be the most important consideration. By way of example, it states that the face and sides of a dormer window should be finished using materials that give a similar visual appearance to the existing house. The technical guidance clarifies within its introduction, that given the very substantial variations in the design of individual houses, this guide cannot cover all possible situations that may arise.
8. The side elevation of the existing bungalow is of a pebble dash finish. The side elevation of the hip-to-gable and dormer window is flush with the side wall of the bungalow and thus appears as a continuation of, and part of, the side wall of the resultant dwelling. Indeed, in this case, I consider, it would appear visually discordant if the side of the rear dormer were to be finished in tiles to reflect the roofing materials. The pebble dash finish therefore matches and is of a similar appearance to the materials used in the construction of the exterior of the existing dwellinghouse. The requirements of paragraph B.2 are therefore met in this regard.
9. Notwithstanding the differences between the submitted plans showing the rear elevation and the development carried out, there is no dispute between the parties that the development indicated on the submitted plans meets the conditions and limitations of Class B in all other respects.
10. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the 'loft conversion with hip to gable roof extension to form gable, rear dormer and 3 Velux roof windows to front' was not well-founded and that

the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

C Sherratt

Inspector

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 16 July 2019 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development shown on drawings reference 0103/3B and 0103/5C that accompanied the application would be development permitted by Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, as amended.

Signed

C Sherratt

Inspector

Date: 14 October 2020

Reference: APP/M5450/X/19/3240163

First Schedule

Loft conversion with hip to gable roof extension to form gable, rear dormer and 3 Velux roof windows to front

Second Schedule

Land at 8 Lincoln Close, Harrow HA2 7RJ

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.